

IC 25-30-1.3

Chapter 1.3. Security Guard Agency Licensing

IC 25-30-1.3-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the private investigator and security guard licensing board established under IC 25-30-1-5.2.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-2

"Business entity"

Sec. 2. As used in this chapter, "business entity" means a firm, a company, an association, an organization, a partnership, or a corporation.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-3

"Licensee"

Sec. 3. As used in this chapter, "licensee" means a person licensed as a security guard agency under this chapter.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-4

"Person"

Sec. 4. As used in this chapter, "person" means an individual, a firm, a company, an association, an organization, a partnership, or a corporation.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-5

"Security guard agency"

Sec. 5. As used in this chapter, "security guard agency" means a person that is in the business of providing, for hire or reward, a guard or other individual to:

- (1) protect persons or property; or
- (2) prevent the misappropriation or concealment of goods, wares and merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-6

"Industrial plant"; application

Sec. 6. (a) For purposes of this section, "industrial plant" means a factory, business, or concern that is engaged primarily in the manufacture or assembly of goods or the processing of raw materials, or both.

(b) This chapter does not apply to the following:

- (1) A law enforcement officer of the United States, a state, or a political subdivision of a state to the extent that the officer is

engaged in the performance of the officer's official duties.

(2) An employee to the extent that the employee is hired for the purpose of guarding and protecting the properties of railroad companies and is licensed as a railroad policeman under IC 8-3-17, to the extent that the employee is engaged in the performance of the employee's official duties.

(3) The owner of an industrial plant or an employee of the owner of an industrial plant to the extent that the owner or the employee is hiring a plant security guard for the owner's industrial plant.

(4) A retail merchant or an employee of the retail merchant to the extent that the retail merchant or the employee is hiring a security guard for the retail merchant's retail establishment.

As added by P.L.185-2007, SEC.27. Amended by P.L.3-2008, SEC.199.

IC 25-30-1.3-7

Necessity of license

Sec. 7. A person may not:

(1) engage in business as a security guard agency;

(2) solicit or advertise for business as a security guard agency;
or

(3) represent or hold a person out as a security guard agency;

unless the person is licensed as a security guard agency under this chapter.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-8

Application

Sec. 8. (a) A person must apply for a license as a security guard agency by submitting the following to the board:

(1) An application as described under subsection (b) and in a form prescribed by the board.

(2) A licensing fee established by the board under IC 25-1-8.

(b) The application for licensure as a security guard agency must include the following:

(1) The full name and business address, including street address, of the applicant.

(2) The name under which the applicant intends to do business as a security guard agency.

(3) The full name and residential address of each of the security guard agency's members, partners, officers, directors, and managers.

(4) Proof of insurance required under section 16 of this chapter.

(5) Other information, evidence, statements, or documents required by the board.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-9

Qualifications for license; grounds for denial

Sec. 9. (a) The board may not issue a security guard agency license to an individual unless the individual:

- (1) is at least twenty-one (21) years of age; and
- (2) demonstrates the necessary knowledge and skills, as determined by the board, to conduct a security guard agency competently.

(b) The board may not issue a security guard agency license to a business entity unless:

- (1) one (1) officer, in the case of a corporation; or
- (2) one (1) partner, in the case of a partnership;

meets the personal qualifications as set out in subsection (a), unless otherwise provided.

(c) The board may deny a license unless the applicant makes a showing satisfactory to the board that the applicant or, if the applicant is a business entity, the officer or partner referred to in subsection (b):

- (1) has not committed an act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this chapter;
- (2) has not been convicted of:
 - (A) a felony; or
 - (B) a misdemeanor that has a direct bearing upon the applicant's ability to practice competently;
- (3) has not been refused a license under this chapter or had a license revoked;
- (4) has not, while unlicensed, committed or aided and abetted commission of an act for which a license is required by this chapter;
- (5) is not on probation or parole; and
- (6) is not being sought under an active warrant against the applicant, officer, or partner.

As added by P.L.185-2007, SEC.27. Amended by P.L.3-2008, SEC.200.

IC 25-30-1.3-10

Change in ownership; termination of license

Sec. 10. If a change in the ownership of a security guard agency results in the failure to meet the qualifications set forth in section 9 of this chapter:

- (1) the license for the security guard agency terminates on the date the change in ownership is effective; and
- (2) the security guard agency must file a new application for a license as a security guard agency with the board.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-11

Continuation of business after death of licensee

Sec. 11. (a) Upon the death of an individual licensed under this chapter, the security guard agency with which the decedent was connected may be carried on for a period of ninety (90) days after the

individual's death by the following:

- (1) In the case of an individual licensee, the surviving spouse, or if there is no surviving spouse, the executor or administrator of the estate of the decedent.
- (2) In the case of a partner, the surviving partners.
- (3) In the case of an officer of a business entity, the other officers of the business entity.

(b) Upon the authorization of the board, a security guard agency may be carried on for a further period of time when necessary to complete an investigation or assist in litigation pending at the death of the decedent.

(c) This section does not authorize the solicitation or acceptance of business after the death of an individual except as provided by this chapter.

(d) This section may not be construed to restrict the sale of a security guard agency if the vendee qualifies for a license under this chapter.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-12

Form of license; pocket card; change of information; assignment of license

Sec. 12. (a) A license, when issued, must be in a form determined by the board and must include the following:

- (1) The full name of the licensee.
- (2) The number and expiration date of the license.

(b) Upon the issuance of a security guard agency license, a pocket card shall be issued without charge to the licensee. If a license is revoked, the person whose license is revoked shall surrender the pocket card and, not later than five (5) days after revocation, shall mail or deliver the pocket card to the board for cancellation.

(c) A licensed security guard agency shall, not later than thirty (30) days after a change, notify the board of any changes to the:

- (1) licensee's address;
- (2) name under which the licensee does business; or
- (3) licensee's officers, directors, members, or partners.

(d) A license issued under this chapter is not assignable and is personal to the licensee.

(e) A licensee shall present, upon the request of any client, a pocket card license that indicates the:

- (1) license is active; and
- (2) licensee is in good standing.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-13

Employees of licensee

Sec. 13. (a) A licensee may employ, to assist the licensee in the licensee's business as a security guard agency, as many unlicensed persons as necessary. The licensee is civilly responsible for the good conduct of all employees while the employees are acting on behalf

of the licensee.

(b) A licensee shall maintain a record, relative to each of the licensee's employees, containing the following information:

(1) A picture taken within thirty (30) days after the date that an employee commences employment with the licensee.

(2) A full set of fingerprints of both hands of each employee.

(c) A licensee shall provide the board, at the board's request, a roster of all unlicensed persons employed by the security guard agency.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-14

Advertisements

Sec. 14. An advertisement by a licensee soliciting or advertising for business must contain the name and address of the licensee as it appears in the records of the board.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-15

Nonresidents

Sec. 15. It is unlawful for a person licensed by any other state to do business in Indiana unless the person is licensed and authorized to do business in Indiana. A person may not do business in Indiana until the person is licensed with the board and meets the requirements for licensees of Indiana. In addition, an out-of-state person must prove to the board that the person is in good standing in the state the person was issued a license.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-16

Insurance

Sec. 16. (a) An applicant for a security guard agency license must submit to the board a certificate of insurance or other evidence of financial responsibility that:

(1) is approved by the board; and

(2) meets the following requirements:

(A) Is issued by an insurance company or other legal entity authorized to transact business in Indiana.

(B) Provides for general liability coverage of at least one hundred thousand dollars (\$100,000).

(C) Lists the state as an additional insured.

(D) States that cancellation and nonrenewal of the underlying policy or other evidence of financial responsibility is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal of the policy.

(E) Contains any other terms and conditions established by the board.

(b) The insurance referred to in subsection (a):

(1) must cover damages that the insured becomes legally

obligated to pay for bodily injury or property damage proximately caused to a person by the insured in conducting business as a security guard agency;

(2) must include coverage for:

(A) false arrest, detention, or imprisonment;

(B) malicious prosecution; and

(C) wrongful entry or eviction or other invasion of the right of private occupancy; and

(3) may not exclude coverage for an intentional act taken by or at the direction of the insured that results in bodily injury, if the injury arises solely from the use of reasonable force to protect persons or property.

(c) If a licensee fails to comply with the insurance requirements of this section, the license of the licensee shall be suspended. A license suspended under this subsection may not be reinstated until an application for reinstatement of the license, in the form prescribed by the board, is filed with the board, together with proper proof of insurance.

(d) The board may deny an application for the reinstatement of a license suspended under this section, notwithstanding the applicant's compliance with the insurance requirements of this section for any of the following:

(1) Any reason that would justify a refusal to issue, a suspension, or a revocation of a license.

(2) The performance by the applicant, while the applicant's license was suspended under this section, of any practice for which a license under this chapter is required.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-17

Expiration; renewal; reinstatement

Sec. 17. (a) Unless a license is renewed, a license issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires every four (4) years after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) If a license has been expired for not more than three (3) years, the license may be reinstated if the holder of the license meets the requirements under IC 25-1-8-6(c).

(d) If a license has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

As added by P.L.185-2007, SEC.27. Amended by P.L.105-2008, SEC.58.

IC 25-30-1.3-18

Fees

Sec. 18. (a) The board shall charge and the licensing agency shall collect the fees established by the board under IC 25-1-8.

(b) All fees collected under this chapter shall be deposited in the state general fund and shall be accounted for by the licensing agency.

(c) All fees collected under this chapter are nontransferable and nonrefundable.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-19

Administrative proceedings; violations; sanctions

Sec. 19. (a) The proceedings under this chapter shall be conducted in accordance with IC 4-21.5. In conducting proceedings under this chapter, the board has all powers granted under IC 4-21.5.

(b) The board may impose sanctions against a licensee under IC 25-1-11 if the board determines that the licensee has done any of the following:

(1) Forcibly and without the consent of the person in lawful possession, entered a building or part of a building.

(2) Impersonated, permitted an employee to impersonate, or aided and abetted an employee in impersonating:

(A) a law enforcement officer;

(B) an employee of the United States government;

(C) an employee of the state; or

(D) an employee of a political subdivision of the state.

(3) During the period between the expiration of a license for failure to renew within the time fixed by this chapter and the reinstatement of the license, committed or permitted an employee to commit an act that would be cause for suspension or revocation of a license or grounds for the denial of the application for a license.

(4) Committed an act that is grounds for a denial of an application for a license under this chapter.

As added by P.L.185-2007, SEC.27. Amended by P.L.3-2008, SEC.201.

IC 25-30-1.3-20

Carrying weapons

Sec. 20. This chapter may not be construed to authorize any licensee to carry any weapon.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-21

Action to collect fees; burden of proving licensure or exemption

Sec. 21. A person that files a civil action to collect fees for performing acts regulated by this chapter must allege and prove that when the action arose the person was not in violation of section 23 of this chapter.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-22

Prosecuting attorneys; reporting violations

Sec. 22. A prosecuting attorney to whom the board reports a violation of this chapter shall cause proceedings to be commenced against a person or a business entity violating this chapter and to prosecute the person or the business entity to final termination.

As added by P.L.185-2007, SEC.27.

IC 25-30-1.3-23

Violations; fines; separate offenses; complaints

Sec. 23. (a) A person who recklessly, knowingly, or intentionally violates this chapter commits a Class A misdemeanor.

(b) A person who is not exempt under section 6 of this chapter, who does not have a security guard agency license, and who recklessly, knowingly, or intentionally:

- (1) engages in business as a security guard agency;
- (2) solicits or advertises for business as a security guard agency;
- or
- (3) in any way represents to be a security guard agency;

commits a Class A misdemeanor.

(c) In addition to any other penalty imposed on the person, the court shall fine a person convicted of an offense under subsection (b) the amount of compensation earned by the person in the commission of the offense. Notwithstanding IC 35-50-3-2, the total fine imposed under this section may exceed ten thousand dollars (\$10,000) if necessary to comply with this subsection.

(d) Each transaction under subsection (b) constitutes a separate offense.

(e) A complaint for a violation of this chapter or for an injunction under section 24 of this chapter is sufficient if the complaint alleges that a person or business entity on a specific day in a specific county:

- (1) engaged in business as a security guard agency;
- (2) solicited or advertised for business as a security guard agency; or
- (3) represented to be a security guard agency;

without a security guard agency license.

(f) A person who recklessly, knowingly, or intentionally fails or refuses to surrender a security guard agency license issued under this chapter when the license is revoked by action of the board commits a Class A misdemeanor.

As added by P.L.185-2007, SEC.27. Amended by P.L.3-2008, SEC.202.

IC 25-30-1.3-24

Activities by unlicensed persons; show cause notice; cease and desist order

Sec. 24. (a) If the board determines that a person that is not licensed or exempt under this chapter is engaged in activities that require a license, the board may send a notice of hearing requiring the person to show cause why the challenged activities are not a

violation of this chapter. The notice must be in writing and include the following information:

- (1) The date, time, and place of the hearing.
- (2) The alleged violation.
- (3) That the affected person or the person's representative may present evidence concerning the alleged violation.

(b) A hearing conducted under this section must comply with IC 4-21.5.

(c) If the board after a hearing determines that the activities that the person engaged in are subject to licensing under this chapter, the board may issue a cease and desist order that describes the person and activities that are the subject of the order.

(d) A cease and desist order issued under this section is enforceable in the circuit courts of Indiana.

(e) The attorney general, the board, or the prosecuting attorney of any county where a violation of section 23(b) of this chapter occurs may file an action in the name of the state for an injunction.

As added by P.L.185-2007, SEC.27.